

mitments that it will ensure that all state-owned and state-invested enterprises will make purchases and sales based solely on commercial considerations, such as price, quality, marketability, and availability, and that U.S. business firms will have an adequate opportunity to compete for sales to and purchases from these enterprises on nondiscriminatory terms and conditions. In addition, the Government of China will not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, including on the quantity, value, or country of origin of any goods purchased or sold, except in a manner consistent with the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). China has also confirmed that state trading enterprises will make purchases that are not for government use. The obligations that China will assume under the WTO Agreement, including China's protocol of accession, meet the requirements of section 1106(b)(2)(A), (19 U.S.C. 2905(b)(2)(A)), and thus my determinations under section 1106(a) do not require invocation of the non-application provisions of the WTO Agreement.

You are directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DETERMINATIONS REGARDING STATE TRADING ENTERPRISES—SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN, AND MATSU

Memorandum of President of the United States, Nov. 9, 2001, 66 F.R. 57359, provided:

Memorandum for the United States Trade Representative

Section 1106(a) of the Omnibus Trade and Competitiveness Act of 1988, (19 U.S.C. 2905(a)) (the "1988 Act"), requires the President to determine for any major trading country that is acceding to the World Trade Organization (WTO) whether state trading enterprises account for a significant share of the exports of that major trading country or goods that compete with imports into that country and whether such state trading enterprises unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or are likely to result in such a burden, restriction, or effect.

Taiwan, known in the WTO as "the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu," is in the final stage of its accession to the WTO. Thus, pursuant to section 1106(a) of the 1988 Act [19 U.S.C. 2905(a)], I determine that state trading enterprises do not account for a significant share of the exports of the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu or of goods that compete with exports to the Separate Customs Territory. Further, I determine that such state trading enterprises do not unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, and are not likely to result in such a burden, restriction, or effect.

You are directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 2906. Definitions

For purposes of this chapter:

(1) The term "distortion" includes, but is not limited to, a subsidy.

(2) The term "foreign country" includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term "GATT" means the GATT 1947 (as defined in section 3501(1)(A) of this title).

(4) The term "implementing bill" has the meaning given such term in section 2191(b)(1) of this title.

(5) The term "international trade" includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term "state trading enterprise" means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(Pub. L. 100-418, title I, §1107, Aug. 23, 1988, 102 Stat. 1134; Pub. L. 103-465, title VI, §621(a)(5), Dec. 8, 1994, 108 Stat. 4993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this part", meaning part 1 (§§1101 to 1107) of subtitle A of title I of Pub. L. 100-418, which enacted this chapter and amended sections 2131, 2133, and 2191 of this title. For complete classification of part 1 to the Code, see Tables.

CODIFICATION

Section is comprised of subsec. (a) of section 1107 of Pub. L. 100-418. Subsec. (b) of section 1107 of Pub. L. 100-418 amended sections 2131 and 2191 of this title.

AMENDMENTS

1994—Par. (3). Pub. L. 103-465 substituted "the GATT 1947 (as defined in section 3501(1)(A) of this title)" for "the General Agreement on Tariffs and Trade".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 621(b) of Pub. L. 103-465, set out as a note under section 1677k of this title.

CHAPTER 18—IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE

Sec.
3001.
3002.
3003.

Purposes.

Definitions.

Congressional approval of United States accession to the Convention.

(a) Congressional approval.

(b) Acceptance of final legal text of Convention by President.

- Sec.
- (c) Unspecified private remedies not created.
 - (d) Termination.
 - 3004. Enactment of Harmonized Tariff Schedule.
 - (a) Omitted.
 - (b) Modifications to Harmonized Tariff Schedule.
 - (c) Status of Harmonized Tariff Schedule.
 - (d) Interim informational use of Harmonized Tariff Schedule classifications.
 - 3005. Commission review of, and recommendations regarding, Harmonized Tariff Schedule.
 - (a) In general.
 - (b) Agency and public views regarding recommendations.
 - (c) Submission of recommendations.
 - (d) Requirements regarding recommendations.
 - 3006. Presidential action on Commission recommendations.
 - (a) In general.
 - (b) Lay-over period.
 - (c) Effective date of modifications.
 - 3007. Publication of Harmonized Tariff Schedule.
 - (a) In general.
 - (b) Content.
 - 3008. Import and export statistics.
 - 3009. Coordination of trade policy and Convention.
 - 3010. United States participation on Customs Cooperation Council regarding Convention.
 - (a) Principal United States agencies.
 - (b) Development of technical proposals.
 - (c) Availability of Customs Cooperation Council publications.
 - 3011. Transition to Harmonized Tariff Schedule.
 - (a) Existing executive actions.
 - (b) Generalized System of Preferences conversion.
 - (c) Import restrictions under Agricultural Adjustment Act.
 - (d) Certain protests and petitions under customs law.
 - 3012. Reference to Harmonized Tariff Schedule.

§ 3001. Purposes

The purposes of this chapter are—

- (1) to approve the International Convention on the Harmonized Commodity Description and Coding System;
- (2) to implement in United States law the nomenclature established internationally by the Convention; and
- (3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

(Pub. L. 100-418, title I, §1201, Aug. 23, 1988, 102 Stat. 1147.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§1201 to 1217) of title I of Pub. L. 100-418, which enacted this chapter, amended sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444, 1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h-4 of Title 50, War and National Defense, and en-

acted provisions set out as notes under sections 1202, 3001, and 3005 of this title, and amended provisions set out as notes preceding section 1202 and under section 2112 of this title. For complete classification of subtitle B to the Code, see Tables.

EFFECTIVE DATE

Section 1217 of Pub. L. 100-418 provided that:

“(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle [subtitle B (§§1201-1217) of title I of Pub. L. 100-418, see References in Text note above] take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 [Aug. 23, 1988].

“(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

“(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 [amending sections 58c, 1312, 1315, 1321, 1337, 1466, 1498, 2011, 2138, 2253, 2434, 2437, 2481, 2483, 2581, 2702, and 2703 of this title, sections 511r, 1444, 1783, and 1784 of Title 7, Agriculture, section 374 of Title 10, Armed Forces, section 301 of Title 13, Census, sections 1274, 2064, 2066, 2602, and 2612 of Title 15, Commerce and Trade, sections 1606a and 3912 of Title 16, Conservation, sections 41 and 951 of Title 21, Food and Drugs, section 5059 of Title 22, Foreign Relations and Intercourse, sections 7652 and 9504 of Title 26, Internal Revenue Code, section 1295 of Title 28, Judiciary and Judicial Procedure, and section 98h-4 of Title 50, War and National Defense, and amending provisions set out as notes preceding section 1202 and under section 2112 of this title] take effect and apply with respect to articles entered on or after such date; and

“(2) sections 1204(c), 1211, and 1212 [enacting sections 3004(c), 3011, and 3012 of this title] take effect.”

§ 3002. Definitions

As used in this chapter:

(1) The term “Commission” means the United States International Trade Commission.

(2) The term “Convention” means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term “Federal agency” means any establishment in the executive branch of the United States Government.

(5) The term “old Schedules” means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term “technical rectifications” means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or sub-headings or notes; and

(D) other clerical or typographical errors.

(Pub. L. 100-418, title I, §1202, Aug. 23, 1988, 102 Stat. 1147.)